TERMINATING EMPLOYMENT

The definition for termination of employment, as defined by law, is as follows:

Termination of employment occurs on the date on which the member experiences a bona fide separation from service of employment with the member's employer, the date of which separation is determined by the employer. The employer shall notify the PERB of the date on which such a termination has occurred. Termination of employment does not include ceasing employment if the member subsequently provides service on a regular basis in any capacity for any school district other than a Class V school district **within 180 calendar days** after ceasing employment or if the PERB determines a purported termination was not a bona fide separation from service with the employer. [§79-902(38)]

To notify NPERS of the date termination of employment occurred, you should complete the "Term Date" field of the Wage & Contribution file.

INSTRUCTIONS FOR NON-CONTRIBUTING MEMBER FORM

Member Name: This should be the member's full name — first, middle initial, maiden name, last name.
Account Number: This is the member's retirement number (*this number is optional*).
SSN: This is the member's social security number.
Address, City, State, Zip: This is the member's current address.
School Name: This is the name of the school district.
County / Dist: This is the county and district number used by NPERS.

The reason a member is not contributing must be listed. If the reason is not listed, mark "Other" and explain.

1. Indicate if the member is on a leave of absence.
2. If the member is on a leave of absence, supply the date when the leave will end.
3. If the member is not on a leave of absence, supply the date of resignation.
4. Supply the last date you paid the member and withheld retirement contributions.
5. Show the date of the report for the member's final contributions.
6. Show the month and year of the report where the member's last hours will be recorded.

Signature: The authorized reporting agent must sign the form.
Date: This is the current date.
Title: This is the title of the authorized reporting agent signing the form.

SAMPLE FORM
NON-CONTRIBUTING MEMBER FORM

Nebraska Public Employees Retirement Systems
1221 N Street, Suite 325
P.O. Box 94816
Lincoln, NE 68509

402-471-2053
800-245-5712
Fax: 402-471-9493

Name (Last, First, Middle)		Date of Birth - -	Plan Type (Check One)
Social Security Number - -	Retirement Number		☐ School
Address	City	State Zip	
Home Phone	Work Phone	Employer	

Non-Contributing School Member Form

This form should be received by the Retirement Office whenever there is an interruption in retirement contributions.

If the interruption arises from a "termination of employment," Neb. Rev. Stat. 79-902(38), the Retirement Office must receive this form after the termination. (Termination of employment means the date on which the employer determines that the employee has had a bona fide separation from employment with the employer. If the employee subsequently provides "compensated service on a regular basis in any capacity for any school district" that participates in the Nebraska School Employees Retirement System within 180 days of this date, no termination is deemed to have occurred.)

Please answer the following questions regarding the member's employment with you: (Please note, to determine a member's eligibility for retirement benefits, we may require further documentation.)

The reason for not contributing:

☐ **Resigned** ☐ **Disability** ☐ **Family Medical**

☐ **Military** ☐ **Deceased Member** ☐ **Leave of Absence**

☐ **Transfer to another Nebraska entity/school**____

☐ **Other** (explain)____

1. Will the member be on an approved leave of absence? ☐ Yes ☐ No
2. If yes to question 1, when will the leave of absence end?____

   Is the approved leave of absence ☐ paid ☐ unpaid?
3. If no to question 1, when was the member's termination date?______________________________________
4. The date of final pay that retirement deductions were withheld was/will be_____________________________

SCHOOLS ONLY

5. The member's final contributions were/will be reported on the monthly report for the month of ______________and year of__________
6. The member's final hours were/will be reported on the monthly report for the month of ________________ and year of ____________

This is to certify that the above information is correct to the best of my knowledge.

Signature of Authorized Reporting Agent____

Typed or printed name of signature____

Title____Date______________________________

BAR CODE

NPERS2400 Rev. 04/03

TERMINATING SERVICE BEFORE QUALIFYING FOR RETIREMENT

Any member of the School Retirement Plan who has terminated employment in a Nebraska public school prior to qualifying for a monthly retirement annuity has the following choices on how to handle his/her account:

Refund – Withdraw the entire account (member contributions plus accumulated interest) as a lump sum payment to member.

Rollover – Transfer all or a percentage of the account directly to another qualified plan or an Individual Retirement Account (IRA) with any remaining amount refunded to the member.

If a member authorizes NPERS to transfer the taxable portion of the account directly to a qualified retirement plan or IRA, no federal taxes will be withheld.

Defer – Leave the account on an inactive basis until qualifying for a retirement benefit (see page 7-11, Member Options at Retirement), or until the required beginning date for distributions of April 1 of the year following the year in which the member turned 70½.

Inactive accounts continue to earn interest. Should the member return to public school employment, subsequent contributions will be added to his/her original account and they will earn additional service credit.

A member is not eligible to receive payment of their accumulated account value until they have ceased employment in a Nebraska public school. They are not eligible to receive payment of their accumulated account sooner than four months from their termination date. A member *must* repay the refund if returning to work prior to 180 days after termination.

NPERS will send an Application for Refund to the member upon his/her request or they may download the form from our website at **www.npers.org**.

Tax Information

NPERS is required to withhold federal income tax at the rate of 20% of the taxable portion of a member's refund. The taxable portion of a refund includes contributions made after January 1, 1986, and the interest the account has earned.

A 10% premature distribution penalty will also be assessed when filing their tax return if a member quits prior to age 55, takes a refund and does not rollover the funds within 60 days. Questions regarding this penalty should be directed to a qualified tax consultant, the Internal Revenue Service, or the Nebraska Department of Revenue. (See "Special Tax Notice," page 7-5.)

Nebraska state income tax can also be withheld, at the request of the member.

A Form 1099R will be sent by January 31 following the year a refund was paid. The Form 1099R gives a breakdown of the taxable and nontaxable portions of the refund and the amount of income tax withheld. NPERS must also send a copy to the IRS.

Additional Refund Information

Service does not need to be verified for a member receiving a refund. A refund cancels service credit unless re-established upon re-employment. (See Chapter 5, Purchasing Service.)

By filing an Application for Refund, a member is indicating they wish to receive a refund of their contributions plus interest. Therefore, if the member dies after filing the Application for Refund, the total amount will be paid to the member's estate, *not to their previously-designated beneficiary*. If the member returns to employment after receiving a refund of their account, they *must file a new Beneficiary Designation Form* #NPERS 1300 or any payment will be made to the member's estate in the event of death.

If a member is re-employed and is working 15 hours or more per week in a Nebraska public school after filing an Application for Refund form with NPERS but prior to actually receiving the refund, he/she must notify NPERS immediately to cancel the refund.

A member who terminates employment and defers payment of their account should keep NPERS updated on his/her address. NPERS sends a Benefit Statement to inactive members, so it is important we have a current address.

SPECIAL TAX NOTICE REGARDING PLAN PAYMENTS

This notice explains how you can continue to defer federal income tax on your retirement savings in the retirement plans administered through the Nebraska Public Employees Retirement Systems (the "Plan") and contains important information you will need before you decide how to receive your Plan benefits.

This notice is provided to you by the Nebraska Public Employees Retirement Systems (your "Plan Administrator") because all or part of the payment that you will soon receive from the Plan may be eligible for rollover by you or your Plan Administrator to a traditional IRA or an eligible employer plan. A rollover is a payment by you or the Plan Administrator of all or part of your benefit to another plan or IRA that allows you to continue to postpone taxation of that benefit until it is paid to you. Your payment cannot be rolled over to a Roth IRA, a SIMPLE IRA, or a Coverdell Education Savings Account (formerly known as an education IRA). An "eligible employer plan" includes a plan qualified under section 401(a) of the Internal Revenue Code, including a 401(k) plan, profit-sharing plan, defined benefit plan, stock bonus plan, and money purchase plan; a section 403(a) annuity plan; a section 403(b) tax-sheltered annuity; and an eligible section 457(b) plan maintained by a governmental employer (governmental 457 plan).

An eligible employer plan is not legally required to accept a rollover. Before you decide to roll over your payment to another employer plan, you should find out whether the plan accepts rollovers and, if so, the types of distributions it accepts as a rollover. You should also find out about any documents that are required to be completed before the receiving plan will accept a rollover. Even if a plan accepts rollovers, it might not accept rollovers of certain types of distributions, such as after-tax amounts. If this is the case, and your distribution includes after-tax amounts, you may wish instead to roll your distribution over to a traditional IRA or split your rollover amount between the employer plan in which you will participate and a traditional IRA. If an employer plan accepts your rollover, the plan may restrict subsequent distributions of the rollover amount or may require your spouse's consent for any subsequent distribution. A subsequent distribution from the plan that accepts your rollover may also be subject to different tax treatment than distributions from this Plan. Check with the administrator of the plan that is to receive your rollover prior to making the rollover.

If you have additional questions after reading this notice, you can contact your plan administrator at 1-800-245-5712 (or in Lincoln at 402-471-2053)

SUMMARY

There are two ways you may be able to receive a Plan payment that is eligible for rollover:

(1) Certain payments can be made directly to a traditional IRA that you establish or to an eligible employer plan that will accept it and hold it for your benefit("DIRECT ROLLOVER"); or

(2) The payment can be PAID TO YOU.

If you choose a DIRECT ROLLOVER:

- Your payment will not be taxed in the current year and no income tax will be withheld.
- You choose whether your payment will be made directly to your traditional IRA or to an eligible employer plan that accepts your rollover. Your payment cannot be rolled over to a Roth IRA, a SIMPLE IRA, or a Coverdell Education Savings Account because these are not traditional IRAs.
- The taxable portion of your payment will be taxed later when you take it out of the traditional IRA or the eligible employer plan. Depending on the type of plan, the later distribution may be subject to different tax treatment than it would be if you received a taxable distribution from this Plan.

If you choose to have a Plan payment that is eligible for rollover PAID TO YOU:

- You will receive only 80% of the taxable amount of the payment, because the Plan Administrator is required to withhold 20% of that amount and send it to the IRS as income tax withholding to be credited against your taxes.
- The taxable amount of your payment will be taxed in the current year unless you roll it over. Under limited circumstances, you may be able to use special tax rules that could reduce the tax you owe. However, if you receive the payment before age 59 1/2, you may have to pay an additional 10% tax.
- You can roll over all or part of the payment by paying it to your traditional IRA or to an eligible employer plan that accepts your rollover within 60 days after you receive the payment. The amount rolled over will not be taxed until you take it out of the traditional IRA or the eligible employer plan.

- If you want to roll over 100% of the payment to a traditional IRA or an eligible employer plan, you must find other money to replace the 20% of the taxable portion that was withheld. If you roll over only the 80% that you received, you will be taxed on the 20% that was withheld and that is not rolled over.

Your Right to Waive the 30-Day Notice Period. Generally, neither a direct rollover nor a payment can be made from the plan until at least 30 days after your receipt of this notice. Thus, after receiving this notice, you have at least 30 days to consider whether or not to have your withdrawal directly rolled over. If you do not wish to wait until this 30-day notice period ends before your election is processed, you may waive the notice period by making an affirmative election indicating whether or not you wish to make a direct rollover. Your withdrawal will then be processed in accordance with your election as soon as practical after it is received by the Plan Administrator.

MORE INFORMATION

I. PAYMENTS THAT CAN AND CANNOT BE ROLLED OVER

II. DIRECT ROLLOVER

III. PAYMENT PAID TO YOU

IV. SURVIVING SPOUSES, ALTERNATE PAYEES, AND OTHER BENEFICIARIES

I. PAYMENTS THAT CAN AND CANNOT BE ROLLED OVER

Payments from the Plan may be “eligible rollover distributions.” This means that they can be rolled over to a traditional IRA or to an eligible employer plan that accepts rollovers. Payments from a plan cannot be rolled over to a Roth IRA, a SIMPLE IRA, or a Coverdell Education Savings Account. Your Plan administrator should be able to tell you what portion of your payment is an eligible rollover distribution.

After-tax Contributions. If you made after-tax contributions to the Plan, these contributions may be rolled into either a traditional IRA or to certain employer plans that accept rollovers of the after-tax contributions. The following rules apply:

a) Rollover into a Traditional IRA. You can roll over your after-tax contributions to a traditional IRA either directly or indirectly. Your plan administrator should be able to tell you how much of your payment is the taxable portion and how much is the after-tax portion.

   If you roll over after-tax contributions to a traditional IRA, it is your responsibility to keep track of, and report to the Service on the applicable forms, the amount of these after-tax contributions. This will enable the nontaxable amount of any future distributions from the traditional IRA to be determined.

   Once you roll over your after-tax contributions to a traditional IRA, those amounts CANNOT later be rolled over to an employer plan.

b) Rollover into an Employer Plan. You can roll over after-tax contributions from an employer plan that is qualified under Code section 401(a) or a section 403(a) annuity plan to another such plan using a direct rollover if the other plan provides separate accounting for amounts rolled over, including separate accounting for the after-tax employee contributions and earnings on those contributions. You can also roll over after-tax contributions from a section 403(b)tax-sheltered annuity to another section 403(b) tax-sheltered annuity using a direct rollover if the other tax-sheltered annuity provides separate accounting for amounts rolled over, including separate accounting for the after-tax employee contributions and earnings on those contributions. You CANNOT roll over after-tax contributions to a governmental 457 plan. If you want to roll over your after-tax contributions to an employer plan that accepts these rollovers, you cannot have the after-tax contributions paid to you first. You must instruct the Plan Administrator of this Plan to make a direct rollover on your behalf. Also, you cannot first roll over after-tax contributions to a traditional IRA and then roll over that amount into an employer plan.

The following types of payments cannot be rolled over:

Payments Spread over Long Periods. You cannot roll over a payment if it is part of a series of equal (or almost equal) payments that are made at least once a year and that will last for:

- your lifetime (or a period measured by your life expectancy),or
- your lifetime and your beneficiary's lifetime (or a period measured by your joint life expectancies), or
- a period of 10 years or more.

Required Minimum Payments. Beginning when you reach age 70 1/2 or retire, whichever is later, a certain portion of your payment cannot be rolled over because it is a "required minimum payment" that must be paid to you. Special rules apply if you own 5% or more of your employer.

Corrective Distributions. A distribution that is made to correct a failed nondiscrimination test or because legal limits on certain contributions were exceeded cannot be rolled over.

The Plan Administrator of this Plan should be able to tell you if your payment includes amounts which cannot be rolled over.

II. DIRECT ROLLOVER

A DIRECT ROLLOVER is a direct payment of the amount of your Plan benefits to a traditional IRA or an eligible employer plan that will accept it. You can choose a DIRECT ROLLOVER of all or any portion of your payment that is an eligible rollover distribution, as described in Part I above. You are not taxed on any taxable portion of your payment for which you choose a DIRECT ROLLOVER until you later take it out of the traditional IRA or eligible employer plan. In addition, no income tax withholding is required for any taxable portion of your Plan benefits for which you choose a DIRECT ROLLOVER. This Plan might not let you choose a DIRECT ROLLOVER if your distributions for the year are less than $200.

DIRECT ROLLOVER to a Traditional IRA. You can open a traditional IRA to receive the direct rollover. If you choose to have your payment made directly to a traditional IRA, contact an IRA sponsor (usually a financial institution) to find out how to have your payment made in a direct rollover to a traditional IRA at that institution. If you are unsure of how to invest your money, you can temporarily establish a traditional IRA to receive the payment. However, in choosing a traditional IRA, you may wish to make sure that the traditional IRA you choose will allow you to move all or a part of your payment to another traditional IRA at a later date, without penalties or other limitations. See IRS Publication 590, Individual Retirement Arrangements, for more information on traditional IRAs (including limits on how often you can roll over between IRAs).

DIRECT ROLLOVER to a Plan. If you are employed by a new employer that has an eligible employer plan, and you want a direct rollover to that plan, ask the plan administrator of that plan whether it will accept your rollover. An eligible employer plan is not legally required to accept a rollover. Even if your new employer's plan does not accept a rollover, you can choose a DIRECT ROLLOVER to a traditional IRA. If the employer plan accepts your rollover, the plan may provide restrictions on the circumstances under which you may later receive a distribution of the rollover amount or may require spousal consent to any subsequent distribution. Check with the plan administrator of that plan before making your decision.

DIRECT ROLLOVER of a Series of Payments. If you receive a payment that can be rolled over to a traditional IRA or an eligible employer plan that will accept it, and it is paid in a series of payments for less than 10 years, your choice to make or not make a DIRECT ROLLOVER for a payment will apply to all later payments in the series until you change your election. You are free to change your election for any later payment in the series.

Change in Tax Treatment Resulting from a DIRECT ROLLOVER. The tax treatment of any payment from the eligible employer plan or traditional IRA receiving your DIRECT ROLLOVER might be different than if you received your benefit in a taxable distribution directly from the Plan. For example, if you were born before January 1, 1936, you might be entitled to ten-year averaging or capital gain treatment, as explained below. However, if you have your benefit rolled over to a section 403(b) tax-sheltered annuity, a governmental 457 plan, or a traditional IRA in a DIRECT ROLLOVER, your benefit will no longer be eligible for that special treatment. See the sections below entitled "Additional 10% Tax if You Are under Age 59 1/2" and "Special Tax Treatment if You Were Born before January 1, 1936."

III. PAYMENT PAID TO YOU

If your payment can be rolled over (see Part I above) and the payment is made to you in cash, it is subject to 20% federal income tax withholding on the taxable portion (state tax withholding may also apply). The payment is taxed in the year you receive it unless, within 60 days, you roll it over to a traditional IRA or an eligible employer plan that accepts rollovers. If you do not roll it over, special tax rules may apply.

Income Tax Withholding:

Mandatory Withholding. If any portion of your payment can be rolled over under Part I above and you do not elect to make a DIRECT ROLLOVER, the Plan is required by law to withhold 20% of the taxable amount. This amount is sent to the IRS as federal income tax withholding. For example, if you can roll over a taxable payment of $10,000, only $8,000 will be paid to you because the Plan must withhold $2,000 as income tax. However, when you prepare your income tax return for the year, unless you make a rollover within 60 days (see "Sixty-Day Rollover Option" below), you must report the full $10,000 as a taxable payment from the Plan. You must report the $2,000 as tax withheld, and it will be credited against any income tax you owe for the year. There will be no income tax withholding if your payments for the year are less than $200.

Voluntary Withholding. If any portion of your payment is taxable but cannot be rolled over under Part I above, the mandatory withholding rules described above do not apply. In this case, you may elect not to have withholding apply to that portion. If you do nothing, 10% will be taken out of this portion of your payment for federal income tax withholding. To elect out of withholding, ask the Plan Administrator for the election form and related information.

Sixty-Day Rollover Option. If you receive a payment that can be rolled over under Part I above, you can still decide to roll over all or part of it to a traditional IRA or to an eligible employer plan that accepts rollovers. If you decide to roll over, you must contribute the amount of the payment you received to a traditional IRA or eligible employer plan within 60 days after you receive the payment. The portion of your payment that is rolled over will not be taxed until you take it out of the traditional IRA or the eligible employer plan.

You can roll over up to 100% of your payment that can be rolled over under Part I above, including an amount equal to the 20% of the taxable portion that was withheld. If you choose to roll over 100%, you must find other money within the 60-day period to contribute to the traditional IRA or the eligible employer plan, to replace the 20% that was withheld. On the other hand, if you roll over only the 80% of the taxable portion that you received, you will be taxed on the 20% that was withheld.

> Example: The taxable portion of your payment that can be rolled over under Part I above is $10,000, and you choose to have it paid to you. You will receive $8,000, and $2,000 will be sent to the IRS as income tax withholding. Within 60 days after receiving the $8,000, you may roll over the entire $10,000 to a traditional IRA or an eligible employer plan. To do this, you roll over the $8,000 you received from the Plan, and you will have to find $2,000 from other sources (your savings, a loan, etc.). In this case, the entire $10,000 is not taxed until you take it out of the traditional IRA or an eligible employer plan. If you roll over the entire $10,000, when you file your income tax return you may get a refund of part or all of the $2,000 withheld.
>
> If, on the other hand, you roll over only $8,000, the $2,000 you did not roll over is taxed in the year it was withheld. When you file your income tax return, you may get a refund of part of the $2,000 withheld. (However, any refund is likely to be larger if you roll over the entire $10,000.)

Additional 10% Tax If You Are under Age 59 1/2. If you receive a payment before you reach age 59 1/2 and you do not roll it over, then, in addition to the regular income tax, you may have to pay an extra tax equal to 10% of the taxable portion of the payment. The additional 10% tax generally does not apply to (1) payments that are paid after you separate from service with your employer during or after the year you reach age 55, (2) payments that are paid because you retire due to disability, (3) payments that are paid as equal (or almost equal) payments over your life or life expectancy (or your and your beneficiary's lives or life expectancies), (4) dividends paid with respect to stock by an employee stock ownership plan (ESOP) as described in Code section 404(k), (5) payments that are paid directly to the government to satisfy a federal tax levy, (6) payments that are paid to an alternate payee under a qualified domestic relations order, or (7) payments that do not exceed the amount of your deductible medical expenses. See IRS Form 5329 for more information on the additional 10% tax.

The additional 10% tax will not apply to distributions from a governmental 457 plan, except to the extent the distribution is attributable to an amount you rolled over to that plan (adjusted for investment returns) from another type of eligible employer plan or IRA. Any amount rolled over from a governmental 457 plan to another type of eligible employer plan or to a traditional IRA will become subject to the additional 10% tax if it is distributed to you before you reach age 59 1/2, unless one of the exceptions applies.

Special Tax Treatment If You Were Born before January 1, 1936. If you receive a payment from a plan qualified under section 401(a) or a section 403(a) annuity plan that can be rolled over under Part I and you do not roll it over to a traditional IRA or an eligible employer plan, the payment will be taxed in the year you receive it. However, if the payment qualifies as a "lump sum distribution," it may be eligible for special tax treatment.

(See also "Employer Stock or Securities", below.) A lump sum distribution is a payment, within one year, of your entire balance under the Plan (and certain other similar plans of the employer) that is payable to you after you have reached age 59 1/2 or because you have separated from service with your employer (or, in the case of a self-employed individual, after you have reached age 59 1/2 or have become disabled). For a payment to be treated as a lump sum distribution, you must have been a participant in the plan for at least five years before the year in which you received the distribution. The special tax treatment for lump sum distributions that may be available to you is described below.

Ten-Year Averaging. If you receive a lump sum distribution and you were born before January 1, 1936, you can make a one-time election to figure the tax on the payment by using "10-year averaging" (using 1986 tax rates). Ten-year averaging often reduces the tax you owe.

Capital Gain Treatment. If you receive a lump sum distribution and you were born before January 1, 1936, and you were a participant in the Plan before 1974, you may elect to have the part of your payment that is attributable to your pre-1974 participation in the Plan taxed as long-term capital gain at a rate of 20%.

There are other limits on the special tax treatment for lump sum distributions. For example, you can generally elect this special tax treatment only once in your lifetime, and the election applies to all lump sum distributions that you receive in that same year. You may not elect this special tax treatment if you rolled amounts into this Plan from a 403(b) tax-sheltered annuity contract or from an IRA not originally attributable to a qualified employer plan. If you have previously rolled over a distribution from this Plan (or certain other similar plans of the employer), you cannot use this special averaging treatment for later payments from the Plan. If you roll over your payment to a traditional IRA, governmental 457 plan, or 403(b) tax-sheltered annuity, you will not be able to use special tax treatment for later payments from that IRA, plan, or annuity. Also, if you roll over only a portion of your payment to a traditional IRA, governmental 457 plan, or 403(b) tax-sheltered annuity, this special tax treatment is not available for the rest of the payment. See IRS Form 4972 for additional information on lump sum distributions and how you elect the special tax treatment.

Employer Stock or Securities. There is a special rule for a payment from the Plan that includes employer stock (or other employer securities). To use this special rule, 1) the payment must qualify as a lump sum distribution, as described above, except that you do not need five years of plan participation, or 2) the employer stock included in the payment must be attributable to "after- tax" employee contributions, if any. Under this special rule, you may have the option of not paying tax on the "net unrealized appreciation" of the stock until you sell the stock. Net unrealized appreciation generally is the increase in the value of the employer stock while it was held by the Plan. For example, if employer stock was contributed to your Plan account when the stock was worth $1,000 but the stock was worth $1,200 when you received it, you would not have to pay tax on the $200 increase in value until you later sold the stock.

You may instead elect not to have the special rule apply to the net unrealized appreciation. In this case, your net unrealized appreciation will be taxed in the year you receive the stock, unless you roll over the stock. The stock can be rolled over to a traditional IRA or another eligible employer plan, either in a direct rollover or a rollover that you make yourself. Generally, you will no longer be able to use the special rule for net unrealized appreciation if you roll the stock over to a traditional IRA or another eligible employer plan.

If you receive only employer stock in a payment that can be rolled over, no amount will be withheld from the payment. If you receive cash or property other than employer stock, as well as employer stock, in a payment that can be rolled over, the 20% withholding amount will be based on the entire taxable amount paid to you (including the value of the employer stock determined by excluding the net unrealized appreciation). However, the amount withheld will be limited to the cash or property (excluding employer stock) paid to you.

If you receive employer stock in a payment that qualifies as a lump sum distribution, the special tax treatment for lump sum distributions described above (such as 10-year averaging) also may apply. See IRS Form 4972 for additional information on these rules.

IV. SURVIVING SPOUSES, ALTERNATE PAYEES, AND OTHER BENEFICIARIES

In general, the rules summarized above that apply to payments to employees also apply to payments to surviving spouses of employees and to spouses or former spouses who are "alternate payees." You are an alternate payee if your interest in the Plan results from a "qualified domestic relations order," which is an order issued by a court, usually in connection with a divorce or legal separation.

If you are a surviving spouse or an alternate payee, you may choose to have a payment that can be rolled over, as described in Part I above, paid in a DIRECT ROLLOVER to a traditional IRA or to an eligible employer plan or paid to you. If you have the payment paid to you, you can keep it or roll it over yourself to a traditional IRA or to an eligible employer plan. Thus, you have the same choices as the employee.

If you are a beneficiary other than a surviving spouse or an alternate payee, you cannot choose a direct rollover, and you cannot roll over the payment yourself.

If you are a surviving spouse, an alternate payee, or another beneficiary, your payment is generally not subject to the additional 10% tax described in Part III above, even if you are younger than age 59 1/2.

If you are a surviving spouse, an alternate payee, or another beneficiary, you may be able to use the special tax treatment for lump sum distributions and the special rule for payments that include employer stock, as described in Part III above. If you receive a payment because of the employee's death, you may be able to treat the payment as a lump sum distribution if the employee met the appropriate age requirements, whether or not the employee had 5 years of participation in the Plan.

HOW TO OBTAIN ADDITIONAL INFORMATION

This notice summarizes only the federal (not state or local) tax rules that might apply to your payment. The rules described above are complex and contain many conditions and exceptions that are not included in this notice. Therefore, you may want to consult with the Plan Administrator or a professional tax advisor before you take a payment of your benefits from your Plan. Also, you can find more specific information on the tax treatment of payments from qualified employer plans in IRS Publication 575, Pension and Annuity Income, and IRS Publication 590, Individual Retirement Arrangements. These publications are available from your local IRS office, on the IRS's Internet Web Site at www.irs.gov, or by calling 1-800-TAX-FORMS.

MEMBER OPTIONS FOR RETIREMENT

Any member of the School Retirement Plan who has terminated employment (i.e. has ceased work and not returned within 180 days) in a Nebraska public school covered under this plan may receive monthly retirement benefits if one of the following applies:

1. The member terminates employment at age 65 with at least one-half year of service credit.

2. The member has 5 years of service, terminates employment at any age, and applies for benefits at age 65 or older.

3. The member's age plus years of service equal 85 provided he / she is at least age 55 and was employed on or after the 1997-98 school year ("Rule of 85").

4. The member is age 60 with at least five years of service credit (benefits are reduced 3% for each year he / she is less than age 65).

5. The member has no service after July 1, 1997, and his / her age plus years of service equal 90 provided he / she is at least age 60 ("Rule of 90").

6. The member has 35 years of service credit at any age (benefits are reduced according to normal actuarial tables before age 55).

7. The member becomes disabled. (See Chapter 6, Death and Disability.)

Retirement benefits are not paid automatically. The member should contact NPERS in writing, by telephone or in person at least three months before the anticipated retirement date and request a School Plan Application for Retirement / Disability form #NPERS3400. The member should file the completed Application for Retirement with NPERS at least 30 days but no more than 90 days prior to the effective date of retirement. The Application may be filed by mail or in person.

Provided the member is eligible for retirement benefits, the *effective date* of retirement would be the first day of the month following the later of:
(1) the day the member ceases employment, OR
(2) the day the completed Application for Retirement form is filed.

Before receiving benefits, the member's service must be verified and proof of age must be on file with NPERS.

A member may receive estimates of monthly benefits by contacting NPERS or by using the Benefit Estimator available at **www.npers.org**. The following retirement benefit options are available to the member as a monthly payment ***for their lifetime***, regardless of the option selected:

Option 1 – Life Only - There is no beneficiary designation under this option and no refund or death benefit.

Option 2 – Modified Cash Refund – If the member dies before receiving payments equal to their retirement account balance at retirement, the remaining amount will be paid in a lump sum to their beneficiary or estate.

Option 3 – Period Certain and Continuous – This option allows the member three choices as to the length of a payment guarantee period for their beneficiary. If the member dies before receiving the total number of payments, the balance of payments will be paid to their beneficiary in monthly payments.

a. **Five-Year – 6**0 payments ***(This is the benefit amount that results from the formula calculation outlined in the Plan.)***

b. **Ten-Year –** 120 payments

c. **Fifteen-Year –** 180 payments

Option 4 – Joint and Survivor Annuity – The member has three choices when choosing this option. They must list only their spouse as beneficiary and should he/she predecease them, they cannot select another beneficiary. In the event of the member's death, the surviving spouse will receive the percentage of the member's elected benefit, paid monthly for his/her lifetime.

a. **50% -** Surviving spouse will receive 50% of their benefit.

b. **75% -** Surviving spouse will receive 75% of their benefit.

c. **100% -** Surviving spouse will receive 100% of their benefit.

Option 5 – Non-Spousal Joint and Survivor Annuity – In the event of the member's death, their surviving beneficiary will receive 50% of the member's benefit, paid monthly for his/her lifetime. The member may name one person as their beneficiary and should he/she predecease them, they cannot select another beneficiary.

The member CANNOT change their ***option*** after their effective date of retirement. Therefore, NPERS suggests estimates of benefits under the above options be obtained before making a selection.

NPERS may request salary verification from the school at retirement to ensure only the three highest 12 month periods of actual salary is used to calculate benefits.

INCOME TAXES

Retirement benefits will be taxed based on the simplified method for taxing annuity distributions as stated in federal law. The method is calculated by dividing after-tax employee contributions by a fixed number of payments based on age at retirement. On the average, 95% or more of the benefit is taxable with 5% or less excludable.

Federal law requires income tax withholding from retirement annuity payments based on the married rate with three allowances unless a member files a Form W-4P with NPERS with a different withholding preference. If a Form W-4P is not filed, NPERS will withhold federal income tax based on the married rate with three allowances.

Nebraska state income tax is not withheld automatically, but may be withheld upon request. A member may request a Nebraska State Income Tax Withholding form.

A letter will be sent with the member's first payment showing the taxable and nontaxable amounts. For additional information, a member should contact the Internal Revenue Service, the Nebraska Department of Revenue or a tax consultant.

COST OF LIVING ADJUSTMENT (COLA)

General COLA Adjustment

After a member has been retired for at least one full fiscal year, they will be eligible for a benefit increase each July 1. This increase is based on the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the previous fiscal year, capped at 2.5%. (This means if the CPI-W is less than 2.5%, the member will receive the CPI-W, but if the CPI-W is higher than 2.5%, the COLA increase will be only 2.5%.)

Purchasing Power Floor COLA

During retirement, if inflation erodes the value of the benefit below 75% of the original purchasing power of the benefit at retirement, the member will qualify for a one-time adjustment increasing the benefit to be the equivalent of 75% of the purchasing power of the original benefit. For each year thereafter the retiree will receive the actual change in the CPI. There is no cap or maximum annual percent for retirees who qualify for the 75% floor.

DIRECT DEPOSIT

A member may have their monthly retirement benefit deposited directly with their financial institution. Bank authorization forms may be obtained from NPERS when they apply for retirement benefits or any time thereafter. Their first retirement benefit check will be mailed directly to them with the direct deposit taking effect the second month.

EMERITUS MEMBERSHIP

Emeritus member means a person:

(a) who has entered retirement under the provisions of the act, including those persons who have retired since July 1, 1945, under any other regularly established retirement or pension system as contemplated by § 79-916;

(b) who has thereafter been reemployed in any capacity by a public school, a Class V school district, or a school under the control and management of the Board of Trustees of the Nebraska State Colleges, the Board of Regents of the University of Nebraska, or a community college board of governors or has become a state school official or county school official subsequent to such retirement; and

(c) who has applied to the board for emeritus membership in the retirement system. The school district or agency shall certify to the PERB on forms prescribed by the PERB that the annuitant was reemployed, rendered a service, and was paid by the district or agency for such services.

REEMPLOYMENT AFTER RETIREMENT

A retiree returning to work in a Nebraska public school may continue to receive monthly retirement benefits, provided he/she has not been employed as a regular school employee by any school for at least **180 calendar days**.

When a retiree is reemployed as a permanent employee and works 15 or more hours per week on an ongoing basis, after a 180 calendar day break in service, deductions must be made from his/her salary and service credit is earned. The retiree may receive additional retirement benefits based on reemployment assuming he/she meets requirements listed on page 7-11, or the retiree may receive a lump sum payment at the time they retire again.

Employment in private schools, Omaha Public Schools, or in any school outside of Nebraska does not affect a retiree's retirement benefits.

For anyone working on a volunteer basis in a Nebraska school in a position from which he/she had retired, reemployment in that position which is being filled on a voluntary basis shall cause a termination of retirement benefits, and any benefits received to date must be repaid. (See Retirement Informational Bulletin, page 7-15.)

It is very important that you **do not assume anything** regarding Reemployment. Questions regarding the status of proposed employment should be submitted, in writing, to NPERS.

It has come to the attention of the Nebraska Public Employees Retirement Systems (NPERS) that a practice has begun to be used by School Plan members as a way of initiating retirement benefits. In brief, a member and school district agree that a member will resign from his or her position, and will immediately continue filling the position on a volunteer basis. After the 180-day break, the member resumes his or her salary, moving back from a volunteer basis. In these cases, the member has performed without a break the duties of a particular position while having a 180-day break in compensation ("in pay" only) for the services rendered.

NPERS is issuing this informational bulletin because this practice raises important federal tax issues. According to Neb. Rev. Stat. § 84 1503, NPERS and the Public Employees Retirement Board must administer the School Employees Retirement System "in a manner which will maintain [the] plan's status as a qualified plan pursuant to the Internal Revenue Code." As will be noted further in this bulletin, if a member never ceased performing the duties of a position, the IRS has issued guidance that would indicate that continuance of services even without the same level of pay could result in a ruling that the member has not had a bona fide separation from service.

Action of the Nebraska Public Employees Retirement Board

Because of the Internal Revenue Service's rulings (as explained later) and in order to comply with the qualified plan requirements, the Public Employees Retirement Board passed the following motion at its January 2002 meeting:

> "Based on the fact that [*the member*] has now recommenced compensated service as [*superintendent at the school district*] after his original employment and subsequent volunteer services in that position, [*the member*] has never experienced a bona fide separation from service with respect to his employment. *[The member's*] retirement benefits are therefore ordered discontinued forthwith and it is further ordered that he be notified that he must repay those retirement benefits which he has received to date; further, that anyone now working on a volunteer basis in a Nebraska school in a position from which he or she had retired, should be notified that reemployment in that position which is now being filled on a voluntary basis shall cause a termination of retirement benefits."

School District Implications

1. All school districts should be aware that if a member or school district has engaged in actions that appear to bring into question the bona fide nature of a member's termination, then NPERS will not allow that member's retirement benefit to begin, or if begun, to continue.

2. If any school district plans to use recently-retired members as volunteers or wishes to hire those who have volunteered their services during the 180-day period for a break in service specified by § 79 902, that member's retirement benefit can be in jeopardy. These situations will be handled on a case-by-case basis, to assure that the member's employment has been actually severed.

3. The school district should be aware that if NPERS determines the member did not have a bona fide termination, the members' retirement benefit will be discontinued, and the member will be asked to reimburse the School Plan for benefits paid.

4. If a member or school district has any questions about a particular possible arrangement, NPERS will examine the proposed arrangement and the facts and circumstances surrounding it, asking for further information if necessary. Once all relevant facts and circumstances have been considered, NPERS may issue an opinion that approves or disapproves the proposed arrangement.

Requirements to Maintain a Qualified Plan – Bona Fide Termination

In exchange for the important tax advantages outlined in the next section, the IRS has a set of rules that govern how members may receive their benefits from the qualified retirement plan. Compliance with asset/benefit distribution rules is the price that a qualified plan pays to take advantage of the lifelong tax benefits received through participation in the qualified plan.

Among the benefit payment rules and policies created by the IRS is the rule that, prior to normal retirement (65 in the School Plan), assets of the pension plan can only be paid to members in the case of a "bona fide termination of employment."[1] The IRS has also stated that when an employee continues in the employment of the employer after receiving payment of his interest in the plan, there is no separation from service.[2] Special tax treatment will be denied if the employee's return to work indicates there was no separation from service.[3] Denial of special tax treatment would create an unqualified pension plan. The tax benefits outlined below would disappear – the full income tax liability for the contributions and interest made on the members' behalf and the value of the retirement benefit accrued would fall on the members as soon as they had a nonforfeitable right to the benefit.

In Revenue Ruling 55-695, the IRS examined a case where an employee claimed to have terminated her employment, but continued to perform the same services for her former employer, although under a different legal arrangement. "Under the circumstances, it is apparent that the individual performed, on a continuing basis, personal services of the type normally performed by an employee for a business firm, and that the company either exercised, or retained the right to exercise, over her the direction and control necessary to establish the relationship of employer and employee. Accordingly, it is held that the individual was an employee of the company for Federal employment tax purposes for the period. . . " In another case, a doctor who had retired was also returning to work to fill in for his former colleagues during their vacations, thus was working on a part-time basis, and the IRS decided that, given the facts and circumstances of his case, he had not ceased his employment.[4] In a letter to Senator Paul Sarbanes, the IRS also reiterated that it expected a *completely severed* employer/employee relationship in order to rule a termination to be "bona fide."[5]

It is the Internal Revenue Service's concern that terminations be "bona fide" that has prompted the actions of the Nebraska Public Employees Retirement Board.

Tax Advantages of a Qualified Pension Plan

Members of the Nebraska School Employees Retirement Plan enjoy the following tax advantages because of the "qualified" status of the plan:

- *Employees pay no income tax* until benefits are distributed regardless of whether he or she has a forfeitable or nonforfeitable right to the contributions made on his behalf. (By contrast, in a nonqualified plan, tax liabilities accrue as soon as an employee has a nonforfeitable right to the contributions.)[6] Furthermore, in a governmental plan (such as the School Plan) *employee contributions* can be "picked up" in such a way that they are not included within the taxable income of the members.[7] In other words*, the taxable income of members during their active career is significantly reduced by the use of a qualified pension plan.*

- *Rollovers* (lump-sum distributions that are not required distributions) from the plan can also *be given special tax treatment*, because of the qualified plan status (i.e., *members are able to roll the money into a tax-qualified account and avoid income tax* on it until the time of a required minimum distribution).[8]
- Annuity and installment payments are *taxable only as received*[9] (i.e., *members do not pay income tax on their benefits until they receive the checks*.) By contrast, in an unqualified plan, the entire amount becomes taxable when the member had a nonforfeitable right to the benefit.
- The funds and assets of the plan, while they are in the plan, earn and compound income on a *tax-free basis*.[10] *So long as monies remain in the plan, they are not taxed*.